



722 *from the Author*
OBSERVATIONS

ON

DR. STURGES'S

PAMPHLET

RESPECTING

NON-RESIDENCE

OF

The Clergy;

IN

A LETTER

TO MR. BARON MASERES.

The Sectaries take great advantage of this;
and, what is much worse, the Devil also takes advantage
of it.

Bishop of Rochester's Charge to his Clergy in 1800.

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NON-RESIDENT

STATION

A LETTER

TOWARDS THE

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ADVERTISEMENT.

Dr. STURGES's Pamphlet was put into the hands of the writer of the following Letter, by the very learned and excellent person, to whom the Letter is addressed.—The agreement of the Author's opinions, concerning parochial Non-Residence, with those of this valuable friend, is a powerful inducement to the publication of them.

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OBSERVATIONS
ON
DR. STURGES'S PAMPHLET.

MY DEAR SIR,

I RETURN to you Dr. Sturges's pamphlet concerning the Residence of the Clergy; which I have perused with much pleasure, so far forth as I consider it to afford a new proof, of the candour and liberality of his mind; and of his attention to the concerns of that holy religion, of which he is a minister, and the welfare of that church, of which he is a distinguished member: but I observe with sorrow, the lights in which he has exhibited the object of his contemplation, (—the name of Cassius honours the corruption—) and I read, with complete dissent, the chief inferences, which he has deduced, respecting it.

I, also,

I, also, as you long have known, am a sincere Christian, and a hearty friend to the Church of England; a friend to her ministers, and to the measured wealth, the mild dignity, and the modest splendour of her establishment. With Mr. Burke I “ would not relegate religion (like something of which I was ashamed) to obscure municipalities or rustic villages. I can, without pain, see an Archbishop precede a Duke. I can see a Bishop of Durham, or of Winchester, in possession of ten thousand pounds a year, without supposing that revenue to be in worse hands, than those of this Earl or that Squire. I am of opinion, that they who are no otherwise employed than by singing in a choir, are as usefully employed as those who neither sing nor say; nay, as usefully as those who sing upon the stage. In my contemplation, the sweat of the mason and carpenter flows as pleasantly, and as salubriously in

in the construction and repair of the majestic edifices of religion, as in the painted booths and sordid sties of vice and luxury: as honourably and profitably in repairing those sacred works, which grow hoary with innumerable years, as on the momentary receptacles of transient voluptuousness—in opera-houses, and brothels, and gaming-houses, and club-houses.”

Nevertheless, well pleased as I am, that the ministers of religion should have their share in that exuberance, *which, in every prosperous community, is produced beyond what is requisite for the support of the producer*; I am not, therefore, to lose sight of the great purposes, for which national churches were established and endowed; or to forget, that the interests of religion are paramount to those of her clergy, and that all the rights of the members of that body, as such, are derived from and held in

in subservience to the religion, of which they are the ministers.

Dr. Sturges, in elegant but frigid language, states the *propriety* of clergymen's residing on their respective benefices; and he enumerates some of the important benefits resulting from such residence.

He also admits, that "the non-residence of the clergy has been especially urged as a matter of general complaint;" for which he confesses, that "there has been too much occasion." But he is apprehensive, that "the nation may be induced to think the evil, though it may be great, yet still greater than it would appear, when carefully and impartially examined."

I must own, that I have no fear of this sort. As it seems to me, the mischiefs of the non-residence of the clergy are essentially so extensive and mortal, that they cannot easily be magnified: nor do I think,
that,

that, if in their nature they readily admitted of exaggeration, the present age is peculiarly liable to the danger of overrating them.

Most undoubtedly Dr. Sturges has not overrated them. On the contrary, he seems to me to have spoken of them, in a very cold and perfunctory strain of animadversion. This I am willing to ascribe partly to the general mildness of Dr. Sturges's temper, and partly to that apprehension, which he has expressed, that the current of opinion is turned too strongly against non-residence. I, however, have no such apprehension; and, therefore, I scruple not to reinforce the tender representations of Dr. S. by the vigorous and energetic eloquence of two other most learned, zealous, and laborious champions of our church, the ornaments of two distant periods.

Your friend, Bishop Horsley, speaking
to

to his clergy, says, "If the high expediency of non-residence be not suggested to your own minds, by the detail, which I have set before you, of the particulars of your duty, I know not by what words of mine I could hope to turn your attention to the subject. The evil is grown to that gigantic size, that a remedy, in one way or other, can be at no great distance; and if persuasion prove ineffectual, or take not, indeed, a very speedy effect, other measures must be taken, and other remedies provided."

Thus then we see, that, in the year 1800, the Bishop of Rochester thought, not only that the evil was gross and flagrant, but that the existing laws were insufficient to correct it. Two centuries before, the venerable Hooker, writing on this subject, and another, somewhat connected with it, thus expresses himself.

"The truth is, that of all things hitherto mentioned,

mentioned, the greatest is that blot or blemish of unconscionable absence from the cures whereof men have taken charge, and unsatiabable hunting after spiritual preferments without either care or conscience of the public good; whereof to the end that we may consider, as in God's own sight and presence, with all uprightness, sincerity, and truth; let us particularly weigh and examine in each of them.—

First, How far forth they are approveable by reasons and maxims of common right. Secondly, Whether that which our laws do permit, be repugnant to those maxims; and with what equity we ought to judge of things practised in this case; neither, on the one hand, defending that which must be acknowledged out of square, nor, on the other side, condemning rashly whom we list for whatsoever we disallow. Teachers are shepherds, whose flocks can be no time secure from danger. They are
watchmen,

watchmen, whom the enemy doth always besiege. Their labours in the word and sacrament admit no intermission. Their duty requireth instruction, and conference with men in private. They are the living oracles of God, to whom the people must resort for counsel. They are commanded to be patterns of holiness, leaders, feeders, supervisors, among their own. It should be their grief, as it was the Apostle's, to be absent, though necessarily, from them over whom they have taken charge.

“Plurality and residence are opposite, because the placing of one clerk in two churches is a point of merchandize, and filthy gain; because no man can serve two masters; because every one should remain in that vocation whereto he is called. What conclude they of all this against non-residence and against plurality of livings? Is there any man so raw and dull, but that the volumes which have been written, both
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of old and of late, may make him in so plentiful a cause eloquent? What availeth it, if we be learned and not faithful? Or what benefit hath the Church of Christ, if there be in us sufficiency, without endeavour to do that good, which our place exacteth? Touching the pains and industry, therefore, wherewith men are in conscience bound to attend the work of their heavenly calling, even as much as in them lieth, bending thereunto their whole endeavour, without either fraud, sophistication, or guile; I see not what more effectual obligation or bond of duty there should be urged, than their only vow and promise made unto God himself, at the time of their ordination. The work which they have undertaken requireth both care and fear. Their sloth, that negligently perform it, maketh them subject to malediction. Besides, we also know, that the fruit of our pains in this function, is life both to
ourselves

ourselves and others. And do we yet need incitements to labour? Shall we stop our ears, both against those conjuring exhortations which apostles, and against those fearful comminations, which prophets have uttered out of the mouth of God, the one for prevention, the other for reformation of our sluggishness in this behalf.—

Woe unto the pastors that destroy and scatter the sheep of my pasture. I will visit you for the wickedness of your works, saith the Lord. The remnant of my sheep I will gather together out of all countries, and will bring them again to their folds. They shall grow and encrease, and I will set up shepherds over them, which shall feed them. Should not the shepherds, should they not feed the flocks? Ye eat the fat, and ye clothe yourselves with the wool; but the weak ye have not strengthened, the sick ye have not cured, neither have ye bound up the broken, nor brought home again that, which
was

was driven away. Ye have not enquired after that which was lost, but with cruelty and rigour have ye ruled. Wherefore, as I live, I will require my sheep at their hands, nor shall the shepherds feed themselves any more; for I will deliver my sheep from their mouths. They shall no more devour them. Nor let us think to excuse ourselves, if haply we labour, though it be at random, and sit not altogether idle abroad: for we are bound to attend that part of the flock of Christians, whereof the Holy Ghost has made us overseers. The residence of ministers upon their own peculiar charge, is by so much the rather necessary, for that absenting themselves from the place where they ought to labour, they neither can do the good which is looked for at their hands; nor reap the comfort which sweeteneth life to them, who spend it in these travels upon their own."

Such is the language of the excellent
Hooker,

Hooker, and such the sentiments on this subject, with which he was impressed. The grave topics, which he has stated, are of constant and universal weight and application ; of so great weight, that I should feel ashamed to overload the argument by any addition to them, if experience had not shewed that their practical efficacy is insufficient.

I will therefore state, that, at the present period, besides all the ordinary principles of obligation on the parochial Clergy to perform their duty, they are loudly called to this performance, and the legislature and all ranks of men are imperiously required, in all legal ways, to compel obedience to this call, by motives arising out of the peculiar character of the times. The enemy, always active, now makes his attacks in a way, which requires, not only activity, firmness, and energy of opposition ; but instant and unremitted vigilance

vigilance of preparation and prevention. “Beware, lest men spoil you through philosophy,” says the Apostle. I need not now detail how, of late, nations have been spoiled through this sort of pretended philosophy; how all hold upon the opinions of men has been loosened; how the force of those tried and safe considerations, by which in ordinary times the bulk of mankind is influenced, has been destroyed; and what tremendous storms of confusion, rebellion, anarchy, and warfare; of profligacy, rapine, treachery, cruelty, murder, and atheism, have followed.

Dr. Johnson has recorded the testimony of Bishop Percy, that he could judge, from the manners of the inhabitants of any parish in the country, whether their minister resided or not among them. To those, if any such there be, who may think it of trifling moment, whether the rustics of a thinly peopled village have or not a superintendent check to licentious practices

tices of immorality, it may yet not appear so indifferent, that they should always have, resident among them, one man, able, disposed, and ready to meet the baneful approaches of revolutionary philosophy; to watch and to extirpate the first growth of that noxious plant, by which the atmosphere of kingdoms has been corrupted; to administer a prompt and powerful antidote to that subtle and infectious poison, which, unless so counteracted, will in this country, as it has done in others, rapidly spread itself through all the members of the body; corrupt by its pestilential taint the vital juices; and finally complete its ravages, by reducing the whole to one equal mass of loathsome and horrible putrefaction, bereft of all wholesome energy and life, but still retaining ample power of re-producing, and disseminating in other regions, the poison by which itself shall have been blasted. Against these evils,
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the residence of a Clergy, such as ours, will afford a mighty protection. A non-resident clergy not only deprives us of this protection, but furnishes a new argument to the enemy, gives a new positive facility to the corrupter, and creates a new positive susceptibility in those whom he would seduce.

Hoc Ithacus velit, et magno mercentur Atridæ.

Before I proceed to consider the details of Dr. Sturges's pamphlet, I must call your attention to some of the provisions of those laws, the attempts to enforce which, (probably enough from selfish motives), appear to have excited alarm in some of the Clergy, and have given rise to Dr. Sturges's exertions. I must be permitted to enumerate the classes of men, who, being parish priests, are yet enabled to absent themselves from a parish, of which they may have the benefice, without in-

curring

curing the penalties, imposed by the tremendous statute 21 Hen. VIII. c. 13.

They are *

1. All those who labour under ill health, or have any other inevitable cause of absence.

2. All those who have another parochial benefice.

3. All those who hold a bishopric, deanry, archdeaconry, canonry, prebend, or other dignity, in cathedral or collegiate churches.

4. All heads of houses, magistrates, and professors in the universities, and all others under forty years of age, residing in an university for the purposes of study.

5. All persons employed in the king's service beyond sea.

6. Chaplains of the king, the queen, and

* See 1 Blackst. Comm. 392, (13th Edit.) and the statutes and other authorities there quoted.

of other members of the royal family, of archbishops and bishops, of peers, peeresses, judges, and certain other persons of high rank or office. But it is to be observed, that only such chaplains of noblemen, &c. are excused from residence, as are actually attendant in the service of those, by whom they are retained.

7. Those who hold certain parochial benefices, not coming under the description of rectories or vicarages.

I hope you will agree with me in thinking, that these exemptions tend to bereave at least a sufficient number of parishes of resident incumbents. They take out of the scope of the statute at least a sufficient number of cases of parochial non-residence, and I verily believe quite as large a number, as Dr. Sturges could supply of meritorious reasons for it. Some of the cases for which he has pleaded—ill health—bodily infirmity—employment in
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the king's embassies, seem to be completely provided for by the law. Of the possible "domestic circumstances" requiring non-residence, to which he alludes, some doubtless would be satisfied by the non-residence, less than one month at one time, and two months at different times, in a year, permitted in all cases by the statute. As to which I believe I may safely assert, that the courts of law, as well as the nation at large, will, on every occasion, be most happy to afford, to a good parish priest, the benefit of the most liberal construction in his favour. A case may certainly now and then occur, in which it may be of very high importance to an incumbent to be absent from his cure, for a longer period than the law justifies; a case which, to use Dr. Sturges's words, "over-rules every other consideration, and is paramount to every other duty." Such a case may perhaps happen, to one out of a hundred

hundred incumbents, once in his life. And is the law of the land, therefore, to be changed, because, in such an event, such an incumbent must purchase such an object, by the *risk* of paying ten pounds a month during the period of his non-residence?

Non de vi neque cæde nec veneno

Sed lis est mihi de tribus capellis.

Dr. Sturges has mentioned as claimants, for exemption from residence, those ecclesiastics who are occupied as tutors at home, or companions abroad, to young men of fortune. That several ecclesiastics are so employed, I recognise with pleasure; for, by this connection, I conceive that “we* attach our gentlemen to the Church, and liberalise the Church by an intercourse with the leading characters

* Burke.

of

of the country." But I am not bound, therefore, to admit that they have a right to exemption from the duties of parish priests, or that, if they had such right, the statute against non-residence should therefore be repealed. As to the latter point, I very much doubt whether we should find, on a particular examination, that the number of clergymen thus rendered obnoxious to the laws against non-residence, is so considerable, as to merit much national attention. The whole number thus engaged cannot be very great; of these, the proportion having parochial benefices, I believe to be extremely small; and of that small proportion some are, as chaplains, and otherwise, protected from the penalties of non-residence.

But why are any parochial clergymen thus employed? It is evident, and it is notorious, that there are abundance of members of the universities, and other ecclesiastics, unattached

tached to parochial benefices, who are willing and perfectly qualified to engage in this other sort of occupation. Why then are the parochial clergy to be called from their bounden duties? And why, if they listen to this call, are they to be thought objects of particular favour and indulgence?

A parochial benefice is by no means an unconditional freehold. He, who accepts it, imposes on himself conscientious and legal duties—among others, the conscientious duty of residence, and legal subjection to the penalties, enacted against the breach of it. When St. Paul says that *they* who wait at the altar, should live of the sacrifice*, he plainly implies at the same time, the converse of his proposition, that they who live of the sacrifice, should wait at the altar. The duties and the emoluments are correlative. And though

* 1 Cor. c. ix.

our forefathers, in their wise and salutary attachment to a Church Establishment, have “not entrusted that great fundamental interest of the whole, to the unsteady and precarious contribution of individuals,” but have given the greatest possible stability and security to the provision of this establishment; yet have they not by any means released the ministers of the Church, from those original, eternal obligations, which form the fundamental considerations, for the appropriations of the revenues set apart for their use.

Subject to these obligations were all parochial benefices accepted, and subject to these are they retained. When measures are taken to compel performance of them, complaint is groundless; and the obvious answer to it is that, which our great poet has represented as suggesting itself to the first man, in refutation of his querulousness against his Creator.—

Too

Too late

They thus contest. Then should have been refused
Those terms whatever, when they were proposed.
Thou didst accept them, Wilt thou enjoy the good,
Then cavil the conditions?

The station of a parochial incumbent, (he is called incumbent, Blackstone tells us, in contemplation of constant residence) is his Parish. *Spartam nactus es: hanc exorna.* He is there, not merely to run over the ritual services of religion, but to administer her instruction, her charities, her consolations, to the ignorant, the poor, and the afflicted. It is not by a weekly lecture from the pulpit, but by constant, vigilant, systematic diligence—in season, and out of season—here a little, and there a little—line upon line—and precept upon precept—that he is to instruct his flock in their religious, and in their civil duties; to teach them to fear God, and to honor the King. If he suffer himself to be se-
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duced from this strait path, truly he will have his reward; but he has only slender cause of reproach to any besides himself, if legal chastisement fall upon him.

Most undoubtedly these considerations have been very much neglected. Many persons, unquestionably, have *[“] assumed the clerical profession, merely as the means of advantageously purchasing a life annuity, on the clear produce of which, after defraying the charges of management, they have lived at large in the world, without any regard to the duties” appendent to it. And it is not unworthy of consideration, that though these unconscientious men readily join in the clamour, at what they call the harsh application of a statute against themselves, they have not ordinarily been backward to employ, in all their energy, the most rigorous engines of statute,

* Dr. S. p. 13.

or of common law, to screw up the values of their perverted revenues.

To these abuses, doubtless, much has been contributed by the extensive lay patronage of this kingdom, and the shameless traffic—not occasional or clandestine, but daily thrusting its unblushing forehead into the most conspicuous columns of the public prints—to which it has given occasion; a traffic of which, perhaps, it is scarcely too much to say, that it has turned the house of prayer into a den of thieves. Nor has the evil not been aggravated by those irregular temples of commercial speculation, of which, on one day, the pulpit is occupied by a divine, and the next, it may be, by an auctioneer.

These mischiefs have encreased, are encreasing, and ought to be diminished. I could wish to see them, altogether exterminated. I could wish to see the extent of lay patronage contracted, (which, as you have
well

well observed, might, in some measure, be, without any inconvenience, accomplished, by repeal of the restrictions on colleges, in stat. 9. Geo. II.* c. 36.) and its exercise farther regulated. I could wish, also, to see new parochial churches or chapels, under complete episcopal institution and superintendence, substituted in place of the uncontrolled edifices of private adventure. But, because I cannot obtain the whole that I think desirable, I am not, therefore, forwardly to reject the good, which is within my reach. Very much will be gained by execution of the laws against non-residents; which, among other great benefits, will probably turn aside, from the clerical profession, many, who, if they should assume it, would assume it to its disgrace.

Dr. Sturges is well aware, and even the law reporters shew, that the stat. 21. Hen.VIII.

* See the *Moderate Reformer*, published by White, Fleet-Street.

has

has not been suffered to sleep. On what motives it may, from time to time, have been enforced, I shall not trouble myself to inquire. Unfortunately, human society is so constructed, that we must not, in all cases, too scrupulously require satisfaction, as to the principles, on which beneficial measures are adopted. We must be content, if their substantial tangible effect be good.*

Lately, however, it is said, an unreasonable number of prosecutions, on this act, has been commenced.—I am sorry for it; but I am still more sorry for the existence of that unreasonable extent of neglect of duty, to which these prosecu-

* Dr. S. has excellently expressed this. “ With the motives of the informer, the law, of which he avails himself, has nothing to do. If in itself reasonable, and fit to be enforced, the character of the person, by whose means it is enforced, should not be urged against it. Such persons are necessary to make laws effective.”

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tions owed their birth. It was well observed in parliament, (I believe by the Solicitor General) on this point, that the very ground, on which the clergy called for extraordinary interposition in their favor, established the enormity of their delinquency.

But Dr. Sturges is afraid, that the poor clergy, those possessed of small, inadequate benefices, who, by keeping school, or some other laudable expedient of industry or economy, are induced to subject themselves to the operation of this statute, may be oppressed by its execution.

That in our establishment any inadequate benefices exist, I very sincerely lament; and if I had any power, I would gladly and strenuously exert it, in co-operating to efface so foul a stain. I heartily wish to see the funds of Queen Anne's bounty augmented, and their efficacy strengthened and accelerated. If I could persuade myself

self to think, that permanent frequency of such prosecutions, as were lately instituted against non-residents, is likely to occur; I should be tempted to hope, that the King's half of the penalties recoverable from non-residents, might, by the bounty of the crown, be appropriated to so excellent a purpose. And, surely, the fines levied on those, who violate the sacred obligation of parochial residence, could not be employed better or more aptly, than in relieving that penury of benefices, which at once is a disgrace to the Church establishment, and by affording a plausible reason for neglect of duty in some, encourages without the same excuse, the same neglect in others.

I cannot, however, believe that the poorer clergy have much to dread from prosecutions for non-residence. Of such prosecutions (except, perhaps, in very few instances, the offspring of personal spite)

the motive will generally be either a notion of duty, or a desire of gain: and neither of these motives will direct a prosecutor to select for his attacks the *poor* clergy. Nay, though I am quite ignorant of the man, and of the details of his transactions, I will venture to hazard the assertion, that the person who lately brought so many actions on the statute of Hen. VIII. warred not against the petty offenders. No, No,—*cantabit vacuus*. He flew at a nobler quarry. I understood he was an inferior member of the profession of the law. No man could have swept an attorney's office, without acquiring some little acquaintance, with the oracular maxims of our homely ancestors. He well enough knows, I will answer for him, what is the value of the damages, proverbially recovered by that simple plaintiff, who sues a beggar.

But if this objection of Dr. Sturges's were twenty times stronger, than I hold it
to

to be: if we were reduced to this alternative, that either poor, laborious, and meritorious clergymen must be subjected to ruinous prosecutions for non-residence, or the statute against non-residence must be abandoned; I should feel compelled to submit myself, however painfully, to the first option. I must, in conformity to the sound well-proved principle of English jurisprudence, prefer a private mischief to a public inconvenience.

Fortunately, however, it is not by any means necessary to employ much time or pains in attempting to untie this knot; we can immediately cut it, with little trouble and no detriment. If, as I take for granted, there be any inadequate benefices, such as to superinduce something, which approaches to a practical necessity on the holders of them, in some way or other to violate the statute against non-residence, let not therefore the whole of that statute be repealed; let
not

not the sound and wholesome provisions of it be abolished, because in some particular instances they are capable of a harsh and cruel application ; rather prevent such application : specifically exempt, from the operation of the law, the incumbents of those cures, which are thus circumstanced.

Indeed, to adduce in this way the slenderness of ecclesiastical benefices, and the importance of respectable provisions for the clergy, in justification of the existing system of non-residence, has always appeared to me a most strange, wild, and contradictory mode of reasoning. The argument sets out with assuming, that the revenues of the Church are insufficient to maintain the beneficed clergy, in that degree of comfort and respect, in which every friend to religion must wish to see her ministers. But if this be true; if these revenues be inadequate to the decent support of one set of men, as resident incumbents,

bents, how much more inadequate must they be, to the decent support of the same set of men, as idle, gratuitous, non-resident annuitants, and also, in addition to them, of another set of persons, (equally clergymen with themselves, and, as a body, possessing, both on the principles of equity and conscience, and also in the view of ecclesiastical expediency, much stronger claims to a respectable maintenance) as officiating curates? To insist, that a given income should maintain two men or two families, would, in common life, be thought a singular mode of remedying its insufficiency for the maintenance of one.

If the whole revenue of a benefice suffice not for the seemly support of its rector; it is sufficiently obvious, that a curate, who receives from him only part of it, must fare but scurvily indeed.

Dr. Sturges seems to dread lest the profession of the Church should, by unnecessary

sary restraints, be rendered so discouraging, as to deter young men of good connections and promising abilities from engaging in it. I think I recollect, in a work of Dr. S.'s, published more than twenty years ago, some reasoning to the same effect; and therefore I will undertake a fuller confutation of this opinion, than I should otherwise perhaps think necessary.

In the first place then, I am thoroughly persuaded that hereafter, as heretofore, the Church of England will enrol among her ministers many and many individuals of the ~~most~~ valuable endowments, who have entered on the sacred function from motives and upon principles, far superior to any considerations of their own conveniency, or the ambition of wealth, of station, or of power: from an awful sense of the divine word; from a heartfelt conviction of the dignity and importance of their calling; from a devout zeal for the advancement of
true

true religion; from an earnest desire to work out their own salvation, to extend the glory of God, and to promote the happiness of mankind; and from a dignified yet humble consciousness, that their consecrated services to these high purposes will not be altogether unavailing.

Besides the excellent and truly great characters, whom motives such as these alone will, I firmly trust, continue to devote to the Church; many others, of the best and best cultivated talents, whose minds have been enlarged, invigorated, and enlightened by that established system of education, ~~from~~ the merits of which have of late been so well displayed,*—many of these must, of necessity, from the constitution of our great schools and universities, be in all times destined to the priesthood; nor will they be *ashamed of the Gospel of Christ*.

* See Dr. Vincent's Answer to the Bishop of Meath.

Lastly;

Lastly; Dr. Sturges has little cause to fear that two arch-bishoprics, twenty-four bishoprics, six and twenty deanries, the splendid appointments in the churches of Durham, St. Paul's, Westminster, Christ Church, Windsor, Canterbury, and Worcester, besides the desirable and affluent stations in the other cathedrals and collegiate churches, in the universities, among the parochial benefices, and the whole mass of Irish preferments, will lose their power of attracting, to the churches of the united kingdom, a sufficient number of "young men of good connections and promising abilities."

I am not very eager, on a topic connected with religion, to repose on the authority of a reputed contemner of revelation. However, *Fas est et ab hoste doceri*. And as Adam Smith was certainly an attentive reader of history, and an acute observer

observer of his own times, a shrewd investigator of the motives of human conduct, and a sagacious judge of the effects of human institutions ; I refuse not to extract, from his *Wealth of Nations*, the following passages, in confirmation of my dissent from what Dr. S. has stated, respecting the probable degradation of the clerical character in this country. “ The great benefices and other ecclesiastical dignities support the honour of the church, notwithstanding the mean circumstances of some of its inferior members. The example of the churches of Scotland, of Geneva, and of several other protestant churches, may satisfy us, that in so creditable a profession, in which education is so easily procured, the hopes of much more moderate benefices *than those in England* will draw a sufficient number of learned, decent, and respectable men into holy orders.” Vol. i. p. 204, 205.

“ By

“ By a very exact account it appears, that in 1755, the whole revenue of the clergy of the church of Scotland, including their glebe or church lands, and the rent of their manses or dwelling houses, estimated according to a reasonable valuation, amounted only to 68,514*l.* 1*s.* 5½*d.* This very moderate revenue affords a decent subsistence to nine hundred and forty-four ministers. The whole expence of the church, including what is occasionally laid out for the building and reparation of churches, and of the manses of ministers, cannot well be supposed to exceed eighty or eighty-five thousand pounds a year. The most opulent church in Christendom does not maintain better the uniformity of faith, the fervor of devotion, the spirit of order, regularity, and austere morals, in the great body of the people, than this very poorly endowed church of Scotland. All the good effects both civil and religious,

gious, which an established church can be supposed to produce, are produced by it as completely as by any other. The greatest part of the protestant churches in Switzerland, which in general are not better endowed than the church of Scotland, produce those effects in a still higher degree." Vol. iii. p. 236.

Let us, then, dismiss this visionary terror. THE ENFORCEMENT OF PAROCHIAL RESIDENCE NEVER WILL EXCLUDE, FROM THE SERVICE OF THE CHURCH, ANY ONE MAN, WHO SHALL BE WORTHY OF ADMISSION INTO IT.

Dr. S. recommends that the compulsion of residence, instead of being enforced by the penalties of a clear, determinate, unyielding law, which he who runs may read, should be left to a vague discretionary power in the bishops; and he says, that "General rules and theoretical order are, abstractedly

abstractedly considered, good things; but when applied rigorously, without discrimination, to practice, in the transactions of common life, they will often produce great inconvenience and hardship to individuals, and will counteract, in many instances, the very purposes, for which such rules and order were established."

This position seems to me to be little more, than an assertion of the very well known truth, that no human contrivance is perfect. We are all very well aware, that the most sublime efforts of human prudence rarely rise higher, than to a discreet choice between opposite evils or inconveniences. But as to the present matter; between the inconveniences or evils of a definite statute, somewhat too severe, perhaps, for some cases, and too lenient, perhaps, in others,—but still fixed, intelligible, and plain—and those of a judicial discretion in the bishops, I cannot bring myself to he-
sitate

sitate for an instant. Judicial discretion is an abomination. In the memorable words of Lord Camden, "It is better to leave a rule inflexible, than permit it to be bent by the discretion of a judge. The discretion of a judge is the law of tyrants: it is always unknown: it is different in different men: it is casual, and depends upon constitution, temper, and passion. In the best, it is oftentimes caprice; in the worst, it is every vice, folly, and passion, to which human nature is liable."

So much for this sort of discretion in the general. But, perhaps, it may be supposed, that in the case now before us, some special grounds of exemption, from the general principle, may be applicable to those reverend persons, for whom this discretion is arrogated.

I am sensible that I now approach tender ground,—*incedo per ignes, suppositos cineri doloso*.

I feel

I feel what "respect is due to high place, what tenderness to living reputation, and what veneration to genius and learning." And I trust, that I shall not give just offence, to any of whom I am about to speak, by a temperate expression of my sentiments, on a point of deep and extensive concernment.

Many reasons then, over and above that I have not yet seen any proof of cause, for the repeal of the statute 21. Hen. VIII. strongly impress upon me, that the enforcement of the residence of parochial clergy, should not be wholly committed to the voluntary interposition of the Bishops.*

First, in the human character is universally acknowledged to exist, (and it may, with perfect freedom from guilt, exist in a very considerable and effective degree) a principle of *esprit du corps*; a principle, which,

* It has not been made appear, that their lordships desire such a change in the law.

in its mildest operation, is apt to subject a man to a more lively sensibility of the rights, and a less acute feeling of the duties, of those, with whom he is, either by profession, or by habits of life, assimilated, than of others. From this principle, most unquestionably, the body of the clergy is not exempt. To the influence of this principle, the pamphlet on my table convinces me, that Dr. Sturges, himself, is a little—and in a judge a little of it is more than enough—subject. That bishop must be a very valuable minister, whose character is as unexceptionable, as Dr. Sturges's. But I solemnly protest, that I should not think the parochial residence of the clergy might, with safety, be made to depend on merely the effects of even his voluntary active interference.

Secondly, I find not, that the successive bodies of bishops, notwithstanding the anxiety on the subject, from time to time, expressed by individuals among them, have
been

been very active in enforcing that residence, which I hold, to be of so great national consequence, and of which it is now proposed, that they alone should have the compulsion. Burn and Gibson* lay down, that, independently of the statute, a bishop may compel the residence of all clergy, who have the cure or care of souls within his diocese. Dr. Sturges, however, seems to intimate (p. 36.), that they want power to do it effectually. I know not exactly how to reconcile these apparent contradictions. I take for granted Dr. Sturges is correct: but, on this supposition, I must express my regret, that the bishops have not demanded from the legislature the necessary extension† of their

* 3 Burn Eccl. Law 281. Gibson 887.

† On institution to a vicarage, an oath is taken by the vicar, that he will constantly reside, unless the bishop shall dispense with his doing so. The general non residence of the clergy gives room to fear, that such dispensations have not been very scrupulously withheld.

powers.

powers. Lord Coke, I think, says, that, “when the law giveth a right, it, by necessary implication, giveth also every thing requisite for the use and enjoyment thereof.” The legislature, which by authorizing the canons, gave to bishops the right of compelling residence, would surely not refuse any reasonable facility in the exercise of that right*.

Thirdly, supposing all our bishops to be completely purified from every gross taint of mortal corruption, yet we cannot expect them to be entirely free from the frailties of humanity. Some will be indolent, some will be timid, some will be too easy tempered. Their very virtues may subject them to misconduct in occasions which

* Although I hope never to see the enforcement of of parochial residence, locked up in the hands of the bishops; no friend of the church would object to their possessing ample and vigorous concurrent powers, to compel the strict performance of that duty.

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would

would occur: In private life, in the character and conduct of an individual, few qualities are more amiable or more valuable, than a lively, tender, active sympathy for the hardships of others. In a judge, this very same quality becomes a miserable, disgraceful, mischievous, weakness. One bishop would be likely to admit in excuse for non-residence one set of hard cases, which would make room for the introduction of a second*: Some would favour those friends, to whom they had been patrons; some, the friends of those, who had been patrons to themselves; the relaxation of one diocesan would be successfully urged in soliciting the indulgence of another: and thus non-residence would be continued in an infinite series of encreasing magnitudes.

Fourthly, length of days weakens the power of resistance, and disables and disinclines from exertions of trouble. In re-ward

ward for the regularity and temperance of our prelates, their lives are ordinarily extended to very long periods. Of the existing twenty-six, one fifth, I believe, have seen more than fourscore years. Is it safe, is it decent, to impose on the infirmity and decrepitude, on the languor and irresolution of such advanced age, the new task of combating the pertinacious importunity of every clamorous claimant for indulgence, throughout an extensive diocese?

In fine, *quis custodiet ipsos custodes?* It is by no means absolutely impossible, that a bishop himself may be obnoxious to the charge of neglecting the duty of residence. And how then would he interpose to enforce the performance of it in another? With what propriety could, for instance, a bishop of Llandaff (I refer to the known delinquency of this learned prelate—*clarâ et multâ virtute redempti*—with the respectful and anxious embarrassment

rassment of a child, compelled to remonstrate against the misconduct of a parent) —with what propriety could that prelate, possessing a bishopric in South Wales, a professorship of Divinity in Cambridge, and a parochial benefice in Leicestershire, yet holding his residence on a lay estate in Westmoreland; with what propriety, consistency, or decency, with what sincerity, or seriousness, I ask, could he undertake to censure, for neglect of the duty, of which we speak, the beneficed clergy of Monmouthshire or Glamorganshire? But let us turn aside from this mortifying contemplation of reality, to the supposition of some other possible but fictitious case. Let us suppose an English bishop, of ample revenues, and in no lack of episcopal mansions, induced to pay a long visit to foreign countries, by some, in itself, innocent, but voluntary, motive; a wish perchance to “survey the sumptuousness

sumptuousness of palaces, or the stateliness of temples, to make accurate measurements of the remains of antient grandeur, or to form a scale of the curiosity of modern art; to collect medals, or to collate manuscripts." In his absence, if haply he could find within his bishopric a man, who, to the consideration and dignity resulting from the appointments of parish priest, chancellor of his diocese, prebendary of his cathedral, and chaplain to our Royal Master, should add the still higher dignities of eminent talents, a benevolent heart, and spotless integrity of life; he would eagerly devolve on such a character the vicarious discharge of his high and weighty functions.

Of such a case Dr. Sturges will allow that the occurrence is not impossible. And let me ask him, with what feelings he, as such vicar-general, would set about to exercise a discretionary power of coercion,
on

on the non-resident clergy of his non-resident bishop?

As my great object is merely to establish the justice and necessity of enforcing by statute parochial residence of the clergy, I shall not enlarge on the other topics, which Dr. Sturges has introduced into his pamphlet. He has agitated the questions, whether the decision, that on every living, which has a parsonage-house, residence must be in such parsonage, be founded on a fair construction of the statute; and, if so, whether it be an expedient regulation. As to this latter, I need not do more than remind him, that much may be said on both sides. He must be perfectly aware of the dilapidating effects of non-residence in a parsonage-house. At the same time, as far as my own opinion goes, I see not any great objection to investing the bishops with a power of conditionally licencing incumbents

cumbents to reside, within their respective parishes, in other houses than the parsonage.

Whether the particular motive for passing the statute 21 Hen. VIII. were or not, as Dr. S. suggests, to affect the alien clergy, who held benefices in England, seems to me at this time of day, a very immaterial circumstance. From the mode, however, in which Hooker expresses himself concerning non-residence, it appears pretty plainly, that in his days (and he lived in few years after the statute was enacted) the practice was given into by clergy, who were not aliens; and was matter of scandal to the church.

The attempt to deduce an inference in favour of non-residence, from the fact that the law allows pluralities of parochial benefices, and that a pluralist cannot be at the same time, resident on more than one benefice, really appears to me a mode of
argument,

argument, too frivolous to be relied on by Dr. S. or indeed to deserve an answer. The law does allow pluralities; and, with them, their necessary consequences. We must submit to its decrees: but because the law, for the sake I suppose of some greater good, permits an evil practice in one case; is it therefore to be censured, for that in another case, it permits not the same evil, without any reason at all?

Nor can I allow much solidity to the complaint, (somewhat more specious) that “the same fine is imposed on the poor and on the wealthy clergyman; and that the severity of the law will chiefly fall on the inferior clergy, since the incumbents of small livings are the persons, who are most likely to be tempted to quit a mean and inconvenient house, for better accommodations.” In this representation exists a fallacy. The holders of small livings are not necessarily inferior clergy: and I suspect

spect that, of the non-resident holders of small livings, who are unprotected from the penalties of the statute by performance elsewhere of clerical duties, very few are, in fact, inferior clergy. Dr. Sturges, I should imagine, must know several instances of wealthy pluralists, who retain, as makeweights of an ample income, small livings, the humble parsonages of which they would disdain to occupy, and the duties of which they never perform.

But, to meet the objection in its full force, we need only observe that the fine imposed is, and was intended to be, a penalty, a punishment, designed to prevent the practice, against which it was directed; not a composition, or the price of a dispensation or indulgence, for the continuance of it. Naturally, therefore, the legislature made it of a magnitude, sufficient to render it a severe mulct on the most wealthy. And, as it is not usual in penal statutes

statutes to provide gradations of pecuniary punishment, adapted to the different pecuniary circumstances of offenders, we are not to wonder that such a provision is not to be found in the Act before us. Upon those, therefore of small incomes, who chuse to incur it, the fine may fall very heavily. And in this, if we be seriously disposed to put a stop to the abuse, against which it is applied, I see not any very great cause of lamentation, or reproach. Every body knows, and most people feel, how rapidly proceeds the depreciation of the exchangeable value of money. If the legislature should substitute what might, at this time, appear to some, to be a more reasonable fine ; we may, in contemplation of the lapse of no great number of years, ask such a question, as Aulus Gellius applied to an ordinance of the twelve tables. *Quis erit tam inops, quem ab injuriæ faciendæ lubidine*
viginti quinque

vigintiquinque asses deterreant? and we may reckon on many an offender, who will outrage the law, not from the extravagance of insolence,* or wantonness, but in the way of sober thrift and provident computation; men, who with deliberate contumely will violate their duty to religion, and indemnify themselves against the penalty, out of the funds entrusted to them for its support.

Of the other legislative regulations of the clergy, noticed by Dr. Sturges, I purposely avoid any examination. They are totally unconnected with the discussion of the law of residence; and the intrusion of them into it, will but distract, from that momentous question, part of the entire attention to which it is so justly entitled. Some of them may, at the season of their enactment, have been † necessary, yet

* Noct. Att. Lib. xx. cap. i.

† Thus there may be hardships in the prohibitions on the clergy to farm, &c. yet certainly these prohibitions
were

may now require modification or repeal. *Time*, as Lord Bacon says, *is the greatest of innovators*. But, for the grand objects of remonstrance, the penalties against parochial non-residence in general, they were enacted, as the preamble of the statute in grave and simple phrase declares, for purposes of inherent and unchanging

were introduced to protect the honour of their order, as well as that of religion. Hooker commends them in this light, and cites from Aristotle's Politics, Οὐτε γεωργὸν ἔτε θάναυσον ἱερέα καλῶσαι· ὑπὲρ γὰρ τῶν πολιτικῶν πρέπει τιμᾶσαι τὸς θεοὺς. He might also have cited from the Son of Sirach, "The wisdom of a learned man cometh by opportunity of leisure. How can he get wisdom that holdeth the plough, and glorieth in the goad; that driveth oxen, and is occupied in their labours, and whose talk is of bullocks? he giveth his mind to make furrows, and is diligent to give the kine fodder." See too in *Joseph Andrews*, what was alluded to in the House of Commons, the character of Trulliber.

By the statute of Hen. VIII. Clergymen are specially forbidden to keep tanhouses or brewhouses.

good ;

good ;* “ for the more quiet and virtuous increase and maintenance of divine service, the preaching and teaching the word of God with godly and good example giving, the

* That eminent judge, Lord Hobart, calls this statute “ a most religious and politic church law, and almost a redintegration of the holy ancient canons, and a restoration of the church, ruined by the pope’s tot quot, dispensations, &c.” And he says that “ the scope of it was to appropriate to every flock, his proper pastor, both in body and mind.” Indeed the canons (though their wholesome provisions were often shamefully eluded, through the profligate exercise of the dispensing powers, claimed by the popes,) most strongly declare the important duty, and most strictly enjoin the practice, of parochial residence. The following I find cited and referred to, in a book of common law reports, 2 Wils. *Quia nonnulli, modum avaritiæ non ponentes,—plures ecclesias parochiales, contra sacrorum canonum instituta, nituntur accipere; ut, CUM UNUM OFFICIUM VIX IMPLERE SUFFICIENT, sibi vendicent stipendia plurimorum: nè id cæterò fiat distinctius inhibemus. Cùm igitur ecclesia vel ecclesiasticum ministerium committi debuerit,*

the better discharge of curates, the maintenance of hospitality, the relief of poor people, the increase of devotion and good opinion of the lay-fee toward the spi-

debuerit, talis ad hoc persona quæatur, QUI RESIDERE IN LOCO, ET CURAM EJUS PER SEIPSUM VALEAT EXERCERE: quòd si alitèr actum fuerit, et qui receperit, quod contra sacros canones accepit, amittat; et qui dederit, largiendi potestate privetur. Forty-third canon of the third council of Lateran, held A. D. 1179. Quicumque receperit aliquod beneficium, curam habens animarum annexam, si priùs tale beneficium habebat, eo, sit jure privatus; et si forte illud retinere contenderit, etiam alio spoliatur. Twenty-eighth canon of fourth or great council of Lateran, held A. D. 1215.

See, also, to the same effect, the canons of the second council of Lyons, in the year 1274; and the decretal of Pope John, A. D. 1277, beginning, *Execrabilis quorundam tam religiosorum quam secularium ambitio*: which (after reciting the many evils of pluralities and non-residence) decrees, that whoever holds a plurality by dispensation, shall make his election, within a month after notice of the decree, which benefice he chuses to keep; and shall resign the others: and, if he do not, all his livings shall be void.

ritual

ritual persons." To all applications for relaxation of these, I hope and trust that parliament will resolutely repeat the answer of their ancestors, ~~given~~ nearly six hundred years ago, to a proposition from the bishops, of much less importance in itself, and much less mischief in its tendency.

OMNES COMITES ET BARONES UNA VOCE
RESPONDERUNT, QUOD NOLUNT LEGEM
ANGLIÆ MUTARE.

I am, &c, &c.

FINIS.

in

Case 2, ms I

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CXIV.

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C. 141

Observations on Dr. Sturges's Pamphlet respecting of the Clergy

London 1802

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